

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ILLINOIS
EASTERN DIVISION

G.M. SIGN, INC., an Illinois corporation,
individually and as a representative of a class of
similarly-situated persons,

Plaintiff,

v.

ELM STREET CHIROPRACTIC, LTD. and
JOHN DOES 1-10,

Defendants.

No. 11-CV-7225

Judge

Magistrate Judge _____

DEFENDANT'S NOTICE OF REMOVAL

Defendant, Elm Street Chiropractic, Ltd, by and through its attorneys, David J. Tecson, Alan B. Ronson and Sanjay Shivpuri of Chuhak & Tecson, P.C., file Defendant's Notice of Removal pursuant to 28 U.S.C. §§1331, 1441 and 1446, and hereby remove an action pending in the Circuit Court for the 19th Judicial Circuit, Lake County, Illinois, and in support hereof, states as follows:

1. On September 7, 2011, Plaintiff filed a class action Complaint in the 19th Judicial Circuit, Lake County, Illinois seeking an injunction and damages under the Federal Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227, as well as asserting related claims for conversion and violation of the Illinois Consumer Fraud Act, arising out of alleged unauthorized faxes sent by the Defendant to the Plaintiff and approximately 40 alleged class members. A copy of the Complaint is attached as Exhibit "A". The Complaint was served on Defendant through its registered agent on September 14, 2011.

2. Section 227(b)(3) establishes a private right of action for violations of the TCPA. While §227(b)(3) states that a person or entity may bring the action in an appropriate court in

their State, it does not state that State court jurisdiction is exclusive. In fact, the 7th Circuit has held that an action pursuant to §227(b)(3) may be brought in either State or Federal Court. See *Brill v. Countrywide Home Loans*, 427 F.3d 446, 447-448, wherein the 7th Circuit expressly held that Federal Courts have original jurisdiction over TCPA claims. Since Plaintiff's claims arise under the TCPA, this Court has Federal question jurisdiction over this case.

3. Defendant has complied with all of the procedural requirements for removal set forth in 28 U.S.C. §1446. Concurrently with the filing of this Notice of Removal, Defendant is providing Notice of Removal to Plaintiff and is filing a copy of this Notice of Removal with the Circuit Court of the 19th Judicial Circuit, Lake County, Illinois.

4. All of the Defendants have consented to the removal of this case.

WHEREFORE, Defendant, Elm Street Chiropractic, Ltd., respectfully removes the State Court action, Case No. 11 CH 4056, from the Circuit Court of the 19th Judicial Circuit, Lake County, Illinois, pursuant to 28 U.S.C. §§1331, 1441 and 1446, to the United States District for the Northern District of Illinois.

Respectfully submitted,

ELM STREET CHIROPRACTIC, LTD.

By: s/David J. Tecson

David J. Tecson (6198108)
Alan B. Ronson (6225955)
Sanjay Shivpuri (6273047)
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CERTIFICATE OF SERVICE

TO: Brian J. Wanca
Anderson + Wanca
3701 Algonquin Road, Suite 760
Rolling Meadows, IL 60008

Phillip A. Bock
Bock & Hatch, LLC
134 N. LaSalle Street, Suite 1000
Chicago, IL 60602

The undersigned, being first duly sworn on oath, certifies that a true and correct copy of this Notice was served upon counsel-of-record as indicated above by depositing same, proper postage prepaid, in the U.S. mailbox located at 30 South Wacker Drive, Chicago, Illinois 60606 at or about 5:00 p.m. this 12th day of October, 2011

s/David J. Tecson